

**Town of Halfmoon Planning Board****Meeting Minutes – April 14, 2014**

Those present at the April 14, 2014 Planning Board meeting were:

**Planning Board Members:** John Ouimet – Chairman  
Don Roberts – Vice Chairman  
Marcel Nadeau  
Tom Ruchlicki  
John Higgins  
Lois Smith-Law

**Planning Board Alternate:** Margaret Sautter

**Director of Planning:** Richard Harris  
**Planner:** Paul Marlow

**Town Attorney:** Lyn Murphy

**Town Board Liaison:** Walt Polak

**CHA Representative:** Mike Bianchino

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Mr. Ouimet opened the April 14, 2014 Planning Board Meeting at 7:04pm. Mr. Ouimet asked the Planning Board Members if they had reviewed the March 24, 2014 Planning Board Minutes. Mr. Roberts made a motion to approve the March 24, 2014 Planning Board Minutes. Mr. Ruchlicki seconded. Mr. Nadeau, Mr. Higgins and Mrs. Smith-Law abstained due to their absence from the March 24, 2014 Planning Board Meeting. Vote: 4-Aye, 0-Nay, 3-Abstained. Motion carried.

*Mr. Ouimet stated the following: Before we start the meeting, there is one addition to the agenda tonight that is not on the printed version. We will now add Rainbow Direct located at 1627 Route 9 for a Change of Tenant application at the end of New Business.*

**Public Hearings:****14.008 PH      Olesen Duplex, 30 Route 146 – Special Use Permit**

Mr. Ouimet opened the Public Hearing at 7:04pm. Mr. Ouimet asked if anyone would like to have the notice read. No one responded. Mr. Brian Olesen, the applicant, stated I'm looking to get a Special Use Permit for 30 Route 146 for a duplex. Mr. Ouimet asked if anyone from the public wished to speak. No one responded. Mr. Ouimet closed the Public Hearing at 7:05pm.

Mr. Roberts made a motion to approve the Special Use Permit application for the Olesen Duplex with the condition that all Code Enforcement/Building Department requirements be addressed prior to issuance of a Certificate of Occupancy (C.O.). Mr. Higgins seconded. All-Aye. Motion carried.

**14.028 PH      Horner Subdivision, 216 Lower Newtown Road – Minor Subdivision**

Mr. Ouimet opened the Public Hearing at 7:06pm. Mr. Ouimet asked if anyone would like to have the notice read. No one responded. Mr. Duane Rabideau from Gilbert VanGuilder Land Surveyor, PLLC stated the following: I'm here tonight representing Ms. Mary Horner for a two-lot subdivision that is located at 216 and 220 Lower Newtown Road. What we're proposing to do is to create a Lot "A", which would be approximately 1.37-acres around the existing farm homestead lot. Also, there is a parcel that had been created around Ms. Horner's house and we are now going to eliminate that and consolidate this piece into the overall farm, which will be approximately 185-acres. This action is not creating any new buildable lots. Mr. Ouimet asked if anyone from the public wished to speak. No one responded. Mr. Ouimet closed the Public Hearing at 7:07pm.

Mr. Roberts made a motion to approve the Minor Subdivision application for the Horner Subdivision. Mr. Ruchlicki seconded. All-Aye. Motion carried.

**New Business:****14.020 NB      Adirondack Basement Systems, 4 Jones Road – Commercial Site Plan**

Mr. Kevin Koval, President of Adirondack Basement Systems, stated the following: The proposal is for a basic addition on the end of the existing building to create a space for our weekly meetings and training sessions. I do realize that this additional space doesn't conform to current code because of the setbacks. So, I'm assuming that this will have to be denied by the Planning Board and then I will have to go to the Zoning Board of Appeals (ZBA). Mr. Ouimet stated right and asked is the proposed addition located on the front of the building? Mr. Koval stated the following: It's tough to call the front and the back because of that lot. It's on the side of the building, which goes towards the points where Bast Hatfield is located. It won't encroach any further onto the setbacks than what the current building already is. It essentially is just extending the length of the building and not any closer to Jones Road or Crescent Road. Mr. Ouimet stated this is an expansion of a pre-existing/non-conforming use and I don't believe that we have the authority to do anything with this proposal at this point in time other than to reject it. Mrs. Murphy stated correct, not based on this proposal.

Mr. Higgins made a motion to deny the Commercial Site Plan application for Adirondack Basement Systems due to the proposed expansion of the pre-existing/non-conforming status of the front yard setback and the addition would further reduce the existing non-compliant front yard setback. Mr. Nadeau seconded. All-Aye. Motion carried.

**14.038 NB      Joe Cars LLC, 1638 Route 9 – Change of Tenant & Sign**

Mr. Joe Hage, the applicant, stated the following: I represent Joe Cars LLC and Mr. Joe Boyajian, the landlord of 1638 Route 9, is also here with me tonight. I'm before the Board for a Change of Tenant and Sign application for Joe Cars LLC. Mr. Ouimet asked was this formerly used by the Midtown Auto Group? Mr. Hage stated correct. Mr. Ouimet asked what do you propose to do with the wholesale operation? Mr. Hage stated we are changing from wholesale to retail now. Mr. Ouimet asked so, are you going to do away with the wholesale business that is located at 1648 Route 9/1 Oak Hill Drive? Mr. Hage stated yes. Mr. Ouimet asked are you now proposing to operate Joe Cars LLC at the 1638 Route 9 location? Mr. Higgins asked so; you're not going to do the previously approved In-Home Occupation at all anymore? Mr. Hage stated no, we're moving from the home to the 1638 Route 9 location. Mr. Higgins asked how many display cars do you plan on having on the lot? Mr. Boyajian stated the following: Probably 16 and I believe we submitted a diagram that showed approximately 16 display cars, two or three customer cars and maybe one or two employee cars. We provided a picture of the lot and it seemed that those cars would fit on

there with no problem. If, for whatever reason, you don't feel that's the case and you want to alter that number of cars that is fine. I just showed you what we kind of thought and Mr. Harris and Mr. Marlow looked at it and they didn't think it was unreasonable. So, that's what we're asking for. Mr. Higgins stated the following: Well, Mr. Harris and Mr. Marlow haven't been around and there have been at least three previous occupants of that lot that during my 10-year and we've always looked at like 12 cars there. Several of us were just wondering why it was always 12 cars before and now you're asking for a lot more than that. So, it was 12 display cars, two customer spots and one employee was what was there before. We're just concerned obviously about safety and people having some place to pull in and park when they want to come and look at cars. Mr. Nadeau stated I'm going to agree with Mr. Higgins on that and knowing that lot has had many issues with previous tenants there and I think we should keep it as we had it at the last approval. Mr. Roberts stated I agree also because we did have some issues at that site. Mrs. Smith-Law stated the following: I actually bought my last car there from your previous tenant and one of the things that I noticed as a customer was that when I got there to look at a car, there was no place for me to park on the lot. I then had to park on the side street and it was so congested in there that they had to actually move cars out of the way so I could even test drive the car that I was looking at. So, I think there were four cars along the front and about seven or eight along the side. Mr. Boyajian stated according to the picture that I submitted, I think we showed six there. Mrs. Smith-Law stated the following: I think it was seven and if you're parking in front of the sales building, this gets really tight in there if a client pulls in so, people have to back out so you can actually take a car out to test drive it and it just gets very congested. Mr. Boyajian stated the following: So, now if you had the four in the front, which obviously is no problem, and on the Oak Hill Drive side you had let's say five, we would go from seven to five and that's nine. Then forget about in front of the garage if you just go from the side of the garage down to Route 9 and if you put five in there, which according to that picture that you have that would fit pretty easily there. You then would have 14 displays and then you would have room for maybe two customer and maybe two staff. So, that would be a total of 18 and if you went down to 16, it's still considerably more. So, we're not really making any progress there as far as numbers go and in a used car lot, the number of cars that you have kind of dictates and I think there is some sort of metric there for a number of cars. Mr. Higgins stated and we have mentioned that to the last people that wanted to go in there and we've told them that it is a small lot and they are limited on the number of cars and I think that's the reason that there is such a turnover there. Mr. Boyajian stated the following: Okay. So, right now the way it stands is that you're willing to give us the go ahead with the original 12 display cars. Mr. Nadeau stated I would agree to that. Mrs. Smith-Law asked what is the open shed that's there going to be used for because maybe if the employees parked in that open shed it would get some of the cars out of the lot. Mr. Hage stated we would use the open shed to wash, wax, vacuum and detail cars and nothing else. Mr. Harris stated the following: I would just like to clarify with the Board; if you're going to consider reaffirming the past approved site plan and the number; in talking with the applicant, I think they were interested in a different configuration than that last site plan because the last site plan had most of the display vehicles in the middle of the lot and what they were discussing with us was an interest in allowing display along Route 9 and Oak Hill Drive. So, if you could just factor that in if you are doing something different than just reaffirming the number or are you affirming the number in the site plan that was previously approved so, we know for enforcement purposes and they know for the setup of the lot. Mr. Ouimet stated if you look at the overhead that you submitted, you have four cars across the front facing Route 9 and seven cars across the side road on Oak Hill Drive so, that's eleven cars. Mr. Boyajian stated there is room for probably five under the trees there. Mr. Nadeau stated we've gone over this numerous times with all of the previous tenants and that is what we felt was comfortable for that lot. Mrs. Smith-Law stated I don't necessarily have any issue at all with you

having the cars out along Route 9 or along Oak Hill Drive because you have to show your cars and that's what made me see the car that I bought. Mr. Nadeau stated I'm just concerned with the number of cars and how they display them is their business. Mrs. Smith-Law stated yes, that is my concern also. Mrs. Murphy stated the following: Just so we're clear, that is different than your prior approval. So, the numbers would be the same, but the display area would be different in that they are permitted to display along Route 9. Mr. Ouimet stated right. Mr. Boyajian asked is there any possibility of getting two more display cars? Mr. Higgins stated regarding the display cars in the front; when you are taking them for a test drive, do you pull out onto Route 9 or do you back into the lot and go out the side road? Mr. Boyajian stated all of the ingress and egress from that occurs on Oak Hill Drive and there is no in and out on Route 9 other than turning onto Oak Hill Drive. Mr. Ouimet stated the following: In 2004 the Planning Board approved a maximum of 12 display vehicles, 2 customer parking spaces and 1 employee parking space for this site and your proposal is for 2 employee parking spaces, 3 customer parking spaces and 16 display cars. With the configuration that you have, I don't know how you can make those turns into there because the lot is tight. Mr. Boyajian stated the following: Basically what I'm saying to you is that with the schematic that we have and the picture that we have, I'm asking you to evaluate it and let's not talk about what we had in the past because you can just look at it and if you feel what we had in the past is all you want to give me, then I will say "fine", but if you look at and you think that I can maybe get a couple more in there, I'll gladly accept that. It's up to you. Mr. Ouimet stated the following: Well, I think you can get a couple more, but the question is can you do business that way with tight radiuses and no place to move cars. You are proposing to take two staff cars and park them where the detail prep area is located. So, that means you would have to move those staff cars to detail a car. Mr. Hage stated the following: The issue is that we just need the 17 number, but would probably be displaying ten cars. You don't want to pack cars up to each other. It might fit ten cars or it might fit 15 cars just to display, but the approval is for having 17 cars and we don't want to break code or something. Mr. Ouimet stated the following: The problem that the Board is facing is that we've had a lot of issues with this area. Sometimes there are just a few cars there and sometimes there are quite a few cars. Mr. Boyajian stated sometimes the number gets abused. Mr. Roberts stated Mr. Boyajian when you first started your presentation you said that you would abide by what the Board said and I think you are hearing us say 12 cars. Mr. Boyajian stated let's do it. Mrs. Murphy stated also a new configuration along Route 9. Mr. Harris stated for a total of 15 cars. Mrs. Murphy stated correct. Mr. Higgins stated and he's also eliminating the home occupation of the wholesale operation located at 1648 Route 9/Oak Hill Drive. Mr. Hage stated the Department of Motor Vehicles (DMV) will automatically delete the application at the house. Mr. Higgins stated we need it for our records also. Mr. Hage stated yes and as soon as it is deleted I will bring that to you. Mrs. Sautter stated the following: On our notes it says that because we are allowing a different configuration and now we're saying that on Route 9 is okay, but it said the previous tenant was approved with a condition that they locate the sales cars further back from Route 9 for line-of-sight purposes. So, I just want to make sure, as I was not here at that point and you gentlemen might remember more about any problems with the line-of-sight at this site. That was the reason we gave that number and now we're saying to go ahead and put it all along Route 9, but were there line-of-sight problems. Mr. Boyajian stated I think the line-of-sight problem occurs in the wintertime and that's not from the cars and I think it's where the snow gets plowed over there. Mrs. Murphy stated the following: If we were to refresh Mr. Boyajian's memory, there were some renters or leasers in the past who unfortunately were parking in the right-of-way up really far. So, that was interfering and that was the Board's main concern that they're not being parked in the New York State Department of Transportation (NYSDOT) right-of-way, which would interfere with your ability to look left and right. As long as you are on the property, I don't think there is an actual sight distance issue. Mr. Boyajian stated okay. Mr.

Roberts stated the following: The sign application meets all of the requirements; the applicant is proposing to replace the existing free-standing/monument sign that would be 72" x 42" = 21 SF/per side for a total of 42 SF double-sided. The sign will read Joe Cars LLC and is not proposed to have any lighting.

Mr. Roberts made a motion to approve the Change of Tenant application for Joe Cars LLC with the following conditions: (1) The In-Home Occupation located at 1648 Route 9/1 Oak Hill Drive will terminate; (2) A maximum of 12 display cars, with 2 customer parking spaces and 1 staff parking space permitted under a new configuration and site plan to be submitted to the Planning Department which allows display cars along the perimeter of the property. Mr. Ruchlicki seconded. All-Aye. Motion carried.

Mr. Roberts made a motion to approve the Sign application for Joe Cars LLC. Mr. Nadeau seconded. All-Aye. Motion carried.

**14.042 NB      Jack Byrne Ford, 1003 Hudson River Road – Addition to Site Plan/Special Use Permit & Sign(s)**

Mr. Walt Lippmann from McDonald Engineers stated the following: I'm here representing Jack Byrne Ford located at 1003 Hudson River Road. The proposal is for a 2,700 SF addition to the southwest corner of their existing dealership. As part of that, we're also here for a Special Use Permit. This dealership has been here and is currently zoned M-1 Industrial and an auto dealership is not a permitted use in the M-1 Industrial zone. So, as part of coming in for this addition, we're going to bring this up and get a Special Use Permit to have the dealership located in a M-1 Industrial zone. Also, as part of the project, the front parking area will be repaved and striped. The parking was based on employees, which would be 30 maximum so, there's a parking spot for each employee and also there was one spot for every 200 SF of office space, which was another 30. So, there is 60 employee and customer parking along with three handicapped spaces and the inventory areas; this is more employee parking and there are 100 parking spots in the back for inventory and 150 parking spots on the northwest corner. Also, as part of this, Jack Byrne Ford will be consolidating three parcels and this is due in part to help with some setback requirements that we currently meeting. Right now the setback for this building is 4 FT and by doing a consolidation we can get it up to 19 FT and we do understand that it still does not meet the proper setback requirement. Also, greenspace for auto dealerships; every inch of pavement is crucial. We do know the importance of greenspace and there is an 18 inch border that goes around the building in between the building and the sidewalk and that could be utilized for some landscaping. Regarding signage; the two pedestal signs that are currently in the triangular piece will be staying. There will be two new Ford logo signs; one at the entryway and one next to service. There will be service sign over the two service doors and new Jack Byrne dealer sign on the east portion of the facility. I have a rendering of the proposed new entryway on the south façade and a little bit of the façade will change and it will wrap around on the east and west just to tie it in and the rest of the facility will remain unchanged. Mrs. Murphy stated the following: This is the first time that I'm seeing that sign rendering and regarding the sign furthest to the right; is that a structure or is that a façade for that entryway? The reason why I ask is that our sign law prohibits any signs above the roofline and from that picture it looks like you're above the roofline where the sign is and you just have to move the Ford sign down below the roofline. Mr. Lippmann stated so it's inline or below the roof? Mrs. Murphy stated correct. Mr. Ouimet stated the following: I think there are a couple issues here for us; there are a number of zoning violations as far as the setbacks are concerned; the one that you mentioned regarding the building and even if you consolidate the lots, the setbacks still will not conform. There also is a metal garage building along the north end of the property; is that

the same one? Mr. Lippmann stated that is the one, yes. Mr. Ouimet stated regarding the issue of greenspace; you're not even approaching the 20% that is required are you? Mr. Lippmann stated no, we're not. Mr. Ouimet asked even with the proposal? Mr. Lippmann stated even with the proposed, yes. Mr. Ouimet stated I don't know how far we can go with this and I think this is something that we would have to refer to the Zoning Board of Appeals (ZBA). Mrs. Murphy stated the following: Yes, I believe your hands are tied and you would have to deny it and refer it to the ZBA. At that point though, it would no longer be a Special Use Permit application before this Board because the ZBA has the authority to grant both the expansion of the pre-existing/non-conforming together with the area variances that you need. So, you would have a Public Hearing before the ZBA and this would just be a site plan review should the ZBA grant the variances that you need. Mr. Lippmann stated okay. Mr. Higgins stated regarding the 16 spaces in the front; did you mention that those spaces are going to be used for employee parking? Mr. Lippmann stated well, it's a combination; we have this area here and the existing 65 parking spaces here. The front is going to be a combination of inventory and customer parking. Mr. Lippmann explained to the Board where the two inventory parking areas and the two customer parking areas would be located. Mr. Higgins asked what about service parking? Mr. Lippmann stated there are additional parking spots in through here so; with this addition, as a car approaches this new addition area, there are going to be two service overhead doors and people will drive straight through here and then they will exit through the back into this area. Mr. Higgins stated presently if you are just going in to pick up parts, I usually park along the bank that goes up to the road and asked if they were eliminating those. Mr. Lippmann stated no, they will still be there. Mr. Ruchlicki stated the following: I think where Mr. Higgins is talking about is right where the addition is and that notch that's in there currently are the doors to go into the service area, but if you go into the very corner of that which is the addition/red area and that's where the parts are. Right where that corner protrudes toward the road is where there's parking and that I too would park there if I went for parts. It appears as though you're choking that zone off. Mr. Higgins stated it shows 15 FT. Mr. Lippmann stated well, that's 15 FT from the property line. Mr. Higgins stated well, then you'll have parking outside your property line right now according to this drawing. That's the property line where those parking spots are that is actually in the right-of-way. Mrs. Murphy stated that's why they are going to the ZBA. Mr. Higgins stated the reason I'm asking the question is because I want the ZBA to be aware of that as they might not see it and Mr. Ruchlicki and I are familiar with the site so, that's why I wanted to make a note so the ZBA looks at that.

Mr. Higgins made a motion to deny the Jack Byrne Ford application due to the following: (1) Expansion of a pre-existing/non-conforming use in the M-1 Industrial Zoning District; (2) Expansion of a pre-existing/non-conforming front yard and rear yard setbacks; and, (3) Expansion of a pre-existing/non-conforming greenspace allocation (less than 20%). Mrs. Smith-Law seconded. All-Aye. Motion carried.

#### **14.043 NB      Mr. Formal Wear, 1505 Route 9 – Change of Tenant & Sign**

Mr. Justin Wilock, the applicant, stated the following: I'm here tonight representing Mr. Formal Wear. I'm proposing a Change of Tenant and Sign application for 1505 Route 9 that was formerly the old Tuxego. Everything will be the same inside and outside and just the sign would be different. The operation will still be tuxedos and it will still be rental. The same thing with retail; with tuxedos and things like that, but we're focusing the majority on just tuxedo rentals. Mr. Ouimet asked would you have the same number of employees? Mr. Wilock stated yes, we will have the same number of employees with the old owner and one other person. Mr. Ouimet asked Mr. Harris if he had a chance to look at the site? Mr. Harris stated the following: Yes and we did talk with Code Enforcement and there are no other outstanding items besides this Change of Tenant

and Sign application. We looked at the history of the Board's approvals regarding parking and I think that's something you're prepared to address. Mr. Ouimet asked are you saying that there are no parking violations. Mr. Harris stated correct. Mr. Ouimet stated and you're not changing the use at all so, you'll pretty much have the same traffic in and out of there. Mr. Willock stated yes, the same thing. Mr. Roberts stated the following: Since the video place moved out, I haven't seen any issues with the parking there either. Also, the sign conforms and all they're doing is replacing the panels that were there before.

**For the record: The Planning Department's write-up for the sign(s) is as follows:**

Number of Signs: 2

**Sign 1:**

\* 2' x 10' = 20 SF

\* No lighting

\* Wall-mounted (1 sided)

**Sign 2:**

\* 22" x 82" = 12.5SF/side; 25 SF total

\* No lighting

\* Plaza sign (2 sided)

Mr. Roberts made a motion to approve the Change of Tenant application for Mr. Formal Wear. Mrs. Smith-Law seconded. All-Aye. Motion carried.

Mr. Roberts made a motion to approve the Sign application for Mr. Formal Wear. Mrs. Smith-Law seconded. All-Aye. Motion carried.

**14.044 NB      Halfmoon Heights Manufactured Housing Community, 50A Cemetery Road – Sign (formerly Turf Mobile Home Park)**

Mr. Tom O'Brien, Regional Manager for Garden Homes, stated the following: We recently purchased the park formerly known as the Turf Mobile Home Park. Our proposal is to replace the existing sign where the sign is currently located for the Turf with our sign. Our sign would read Halfmoon Heights/Garden Homes Management. The sign will be two-sided so you can see it coming from both directions. It's at the same setback and everything that the previous sign was. Mr. Roberts stated the sign conforms.

**For the record: The Planning Department's write-up for the sign(s) is as follows:**

Number of Signs: 1

**Sign 1:**

\* 4' x 5' = 20 SF (two-sided) = 40 SF total

Free-standing/Monument (8' in height)

Mr. Roberts made a motion to approve the Sign application for Halfmoon Heights Manufactured Housing Community. Mr. Nadeau seconded. All-Aye. Motion carried.

**14.046 NB      Association of Community Living Agencies in Mental Health, 28 Corporate Drive – Change of Tenant**

Mr. Tom Andress from ABD Surveying & Engineering stated the following: I'm here representing Mr. Ed Abele at Sitterly Associates. The Association of Community Living Agencies in Mental Health is proposing to occupy tenant space at 28 Corporate Drive and would utilize just short of 2,000 SF

of space. Mr. Ouimet stated so, they're not taking all of Anaconda Sports area? Mr. Address stated no, Anaconda is located at 5 Corporate Drive. Mr. Ouimet stated oh, I'm sorry. Mr. Address stated if you actually look on the summary for 28 Corporate Drive, I screwed it up as it has MH Engineering as opposed to Association of Community Living, but there is 125 parking spaces and this summary is 59 so; they have plenty of parking in that facility.

Mr. Ouimet stated okay, why don't you do Crown Castle as well at 3 Corporate Drive for the Change of Tenant.

**14.047 NB      Crown Castle, 3 Corporate Drive – Change of Tenant**

Mr. Tom Address from ABD Surveying & Engineering stated the following: That a larger one; 3 Corporate is the big one across from the recreation center there. Crown Castle is moving into almost a little more than 9,000 SF of tenant space. You have the summary there. The building; unfortunately tenants move in and out. At this point, because this is such a large tenant, they will actually fill up this building for right now. We still have 200 parking spaces there and this comes out to about 173 spaces based upon the employee count. They have 35 employees, but it is 9,000 SF. Mr. Ouimet stated and the third and final one is MH Engineering at 5 Corporate Drive.

**14.048 NB      MH Engineering, 5 Corporate Drive – Change of Tenant**

Mr. Tom Address from ABD Surveying & Engineering stated the following: We came here last fall for the Nanoscale Science and Engineering and unfortunately they never made that move to occupy that building and they are still in 13, which is right behind it, but they decided for whatever reason not to do that. So, some of the other things didn't happen; Anaconda didn't happen to move in and Anaconda stayed there. So, this is some additional space that Via Talk had and it's about a little more than half of the space that Via Talk had that had left. So, it's 2,800 SF and they're a mechanical engineering company with 5 employees.

Mr. Ouimet asked Mr. Harris if the Planning staff looked at the parking situation for the Corporate Drive Change of Tenants that we just talked about? Mr. Marlow stated we have and there is adequate parking. Mr. Ouimet asked for all three of these Change of Tenant applications? Mr. Marlow stated yes. Mr. Roberts asked are there any signs proposed for these 3 previous applications? Mr. Address stated the Abele's don't have me do the signs, they're all those boards and eventually they have a sign person come in who puts all the new boards up. Mr. Ouimet asked are you talking about inside of the buildings? Mr. Address stated the following: No, I think on the outside they have the wood signs and they have like four or five names on them. The larger for 28 I don't believe has it and 28 just has a 28 on it, 5 just has a 5 on it and I think 3 does too. Mr. Ouimet stated so; the individual tenants aren't displayed outside? Mr. Address stated yes, not there, I think they are on a couple of the other buildings that they do have them and I don't believe in that one they have them. Mr. Ouimet stated but you're not asking for sign approval for these three Change of Tenant applications, right? Mr. Address stated correct.

Mr. Roberts made a motion to approve three Change of Tenant applications for: Association of Community Living Agencies in Mental Health at 28 Corporate Drive, Crown Castle at 3 Corporate Drive and MH Engineering at 5 Corporate Drive. Mr. Nadeau seconded. All-Aye. Motion carried.

**14.045 NB      Rainbow Direct, 1627 Route 9 – Change of Use**

Mr. Michael Snide, the applicant, stated the following: I'm representing Rainbow Direct and we're currently celebrating our 17<sup>th</sup> year in the Halfmoon/Southern Saratoga County area. We are looking for the Town's approval on a Change of Tenant and Use application. Mr. Ouimet asked did



you operate the Rainbow Direct franchise a couple of years back? Mr. Michael stated yes sir, I've been involved with Rainbow Direct for 17 years on and off in various positions as owner and also as a consultant for the current Rainbow sales, which is just north of Route 146 on Ushers Road. Mr. Roberts stated so; you were located on Route 9 in Halfmoon before. Mr. Michael Snide stated that is correct and actually it was right next door to where we are applying for right now. Mr. Higgins asked where is the office going to be? Mr. Michael Snide stated if you look at the map, the office is the building that is located on the right-hand side of the map about midway up labeled "septic tank" "660 SF". Mr. Higgins stated okay, so that's the building in there. Mr. Michael Snide stated that is correct and that is an existing job site trailer that is on blocks. Mr. Higgins stated the following: Previously when you were located next door to here, the Board had problems with you being successful in having a lot more inventory on-site where it wasn't supposed to be. I don't if you recall that, but you got cited a few times. Mr. Michael Snide stated the following: As the manager now, I'm not sure exactly what issues the Board had previous to me coming onboard as the manager, but I can tell you that we will comply with whatever the Board or whatever the Town wants us to comply with. I'm not sure what exactly happened previously to me becoming a manager. Mr. Higgins stated what happened previously was that displays would appear outside of the fencing up near Route 9. Mr. Bill Snide stated the following: I'm Michael's father and I'm not sure what you are talking sir, because we never got cited by the Town for anything. We never put any displays outside the fence due to security reasons and safety reasons; not one time. It might have been Siena Fence that was doing it, I have no idea. Mr. Higgins stated no, this was down there on the Cummings piece. Myself and several of the Board members remember that happening. Mr. Roberts stated there's no doubt in my mind because we definitely had some issues there. Mr. Bill Snide stated I really don't remember being cited. Mr. Higgins stated maybe you weren't cited and maybe Code Enforcement just went and talked to you. Mr. Bill Snide stated the following: Yes, it could have been more informal because I don't recall. The only display that we had outside was where the play sets were and that was in a fenced area and we also had a trampoline. Mr. Higgins stated it was a while ago and I don't remember exactly what happened, but I do remember that there were questions of not following the site plan. Mr. Bill Snide asked did we address those issues when it was brought to our attention? Mr. Higgins stated the following: again, I don't remember because that was years ago. The only reason why we're mentioning it is because we just want to make sure that if this is the site plan that you're comfortable with, that is the site plan that we're going to see if we drive by. Mr. Bill Snide stated the following: Absolutely and it has to be secure. The swing sets have to be secured because it would be considered as one of those attractive nuisances for the kids so, we have to keep secured and you don't want to invite kids to play in there after business hours. Also, there will be lighting and permanent fencing. Mr. Roberts stated we're also concerned about overcrowding the site with too many pieces. Mr. Michael Snide stated not only does Rainbow play systems have guidelines for the consumers who buy the set, but we also conform to the National Safety Council and the ANSI, which is the American National Safety Council as far as play sets being positioned as such to prevent issues in terms of any accidents. There is a minimum number of feet required between the play sets themselves or any other obstruction possible; light poles, fencing and buildings. So, we conform to that not only in our display area, but also when customers come to buy a set from us and we will educate them on the safety. To address the safety issue; although we're selling swing sets and we want people to try them out and have fun, there's going to be a set number of swings sets that are not allowed to be played on and the swings will be raised as to further prevent any collisions or any type of accidents. Mr. Roberts stated in your narrative you said the number of units that would have on display would be nine. Mr. Michael Snide stated that is correct. Mr. Roberts asked and that is going to be it? Mr. Michael Snide stated that's going to be it in this section that we're proposing and that's it. Mr. Ouimet stated regarding the nine proposed display units, what size are

they? Mr. Michael Snide stated the following: They are scaled out according to the amount of room that we have and they could be anywhere from 15 FT x 20 FT according to the footprint to 18 FT x 30 FT. It just depends on following the safety standards that Rainbow has set and also the Nation has set. Mr. Ouimet stated Rainbow has set safety standards for the installation of purchased sets or when somebody buys a swing set from you, correct? Mr. Michael Snide stated that's correct. Mr. Ouimet stated so; there are standards as how you place that in a person's yard? Mr. Michael Snide stated that is correct. Mr. Ouimet asked are you telling me that Rainbow has standards on how you display sets? Mr. Michael Snide stated Rainbow does not have standards nor do I suspect, in the course of my research, that anybody has any standards on displays, but to insure the safety as far as our liability is concerned, we adhere to those safety standards in our display yard. Mr. Ouimet stated so; in other words, if I had a backyard that is the same size as your proposed display area, could I have nine swing sets in my backyard? Mr. Michael Snide stated the following: Depending on the layout of your backyard, I would have an installer or myself go look at it. Yes sir, if there is a minimum number of feet in between each set or each obstruction. Mr. Ouimet asked are these sets multi-colored? Mr. Michael Snide stated yes sir. Mr. Ouimet stated the following: One of the issues that this Board has faced in the past is creating an attractive nuisance on Route 9. In other words, people's attention is drawn to these multi-colored objects that just catch your eye and sometimes if there are too many of them in a small area, it's like sensory overload. We have faced that in the past and we struggle with what is an appropriate number to display and I think that's what we're struggling with here tonight. Mr. Michael Snide stated the following: To answer your question or to provide kind of a rebuttal for that; the fenced in area that we're proposing is going to be a black vinyl chain link fence. So, it's going to provide sort of a screen or a tint six feet and below. We also have a dark green colored tarp so as not to display the brightly colored units and distract drivers, but we can also tone it down and put green tarps on it so it sort of blends into the background a little bit. Mr. Roberts stated but the swing sets will be higher than that 6 FT fence. Mr. Michael Snide stated the following: That is correct. The maximum footage of a swing set is about 13 FT so; it would 6 to 7 FT above that. Mrs. Sautter asked are you referring to the green tarp above the swing sets? Mr. Michael Snide stated yes. Mrs. Sautters stated it's like a little tower, but the applicant is saying that they can put green ones on and they can make it all green. Mr. Michael Snide stated the following: That's correct. Obviously, it is multi-colored and very bright and this would be all dark green or a forest green so as to not be so obtrusive when people are driving down Route 9. Mr. Higgins asked how far is the fence off of the property line? Mr. Michael Snide stated based on measurements; approximately 18 to 20 FT would be the fence and 6 FT off of that would be our first set; so you're looking at 26 FT between our first display unit or 20 FT to the fence itself. Mr. Higgins stated okay, because I didn't see any dimension on this drawing, but you're saying that is 18 to 20 FT from the property line to the chain link fence. Mr. Michael Snide stated that is correct. Mr. Higgins stated okay, could we get that added to the site plan please. Mr. Nadeau stated looking at the site plan; what are those areas going to be used for on the northern and southern portion of the site? Mr. Michael Snide stated the following: To the left of the proposed display area is an open portion where you see parking and just a blank asphalt lot and right now that is going to be left unused. We are deciding whether or not we want to put more display units in that area depending on sales this year or whether or not we want to put other products in such as; sheds or outdoor type products. Mr. Nadeau stated so, it could be used for storage of inventory; is that what you're saying? Mr. Michael Snide stated there will be no storage of inventory on this facility and there will be no warehousing at all. Mr. Higgins asked what about the building in the back; would you use that for equipment storage or something? Mr. Michael Snide stated the following: The property owner, Mr. Dan Cummings, decided to take this lot and divide into three parcels. I'm not sure exactly where the other two parcels borders or property lines are, but from the wood board fence/chain link

gate/septic tank building and forward going west is one parcel. The one-story metal building and the gravel area is divided into two other parcels, which we will not be using. Mr. Higgins asked so; what is this approval for? Mrs. Smith-Law stated was this formally divided up? Mr. Harris stated the following: No. In the past the Board approved a tenant and I don't know about the three, but in terms of two; you had approved separately the same person or tenant for auto sales in the front and then repair in the back and I am aware, consistent to what Mr. Michael Snide is saying, that it was handled as two separate leases or arrangements. So, it's not a formal subdivision. What gets confusing is that Mr. Cummings also owns the lot to the south of it where you might see a note there and that is a separate parcel. I know that rental wise he has rented in the past the parcel in two separate parts. You, as a Board, have grappled with this a few years ago, which I had seen in the meeting minutes, when it came to parking and uses on-site. I am aware and I believe the landowner had either cancelled or didn't renew the lease for the front part and then there was grappling from a legal standpoint from what I understand with the rear lot usage. So, it kind of makes sense from what you are saying and he may be reserving that area to rent to another tenant similar to the past whether it's one additional tenant or two. So, I wouldn't be surprised, and we haven't had any meeting, but I wouldn't be surprised if another tenant at some point is proposed. Mrs. Smith-Law stated so; the only way to the back area where the one-story metal building is would be through that parking lot. Mr. Harris stated the following: The lot to the south that's all pretty much one gigantic paved area and the lay person driving by might think at one time two years ago that it was all one gigantic used car lot between the two, but actually it was two separate parcels. So, legally this would be the access, but practically you could get to it from other adjacent parcels. Mr. Michael Snide stated the following: To address Mr. Harris; we are going to leave the entrance to the back two properties as is and we're not going to change that layout or anything and we're not going to block that off. If we decide to use the south lot as another display area, it will be fenced off and it will be its own separate lot allowing access to that back property. Mrs. Murphy stated and you would come back. Mr. Michael Snide stated obviously, we'll come back to have the Board approve that and yes. Mr. Nadeau stated years ago, when this site was previously occupied by the body shop, there was a car dealership that was functioning two separate units there and they were using that as a main thoroughfare to get to the body shop. Mrs. Smith-Law stated the following: I kind of thought and I do remember there being a car lot out front and the body shop. I just worry about traffic cutting through there to get to a back lot if there are kids coming with their families to look at these play units. Mr. Ouimet stated right now we don't have to worry about that. Mrs. Smith-Law stated I know and I'm just projecting. Mr. Polak asked is this a new curb cut off of Route 9? Mr. Michael Snide stated the following: I don't know what curb cut was prior to us acquiring this property and I'm not sure. It looks as though the curb cuts existed prior to us coming in. Mr. Polak stated so; in these nine areas, you could have four or five different displays, correct? Mr. Michael Snide stated the following: No sir, each rectangle labeled S1, 2, 3 and so forth is its own separate display unit and that is the actual footprint of the unit. So, there will only be nine units in the area. Mr. Higgins stated the following: Just to avoid any confusion; the area to the south that's just an open area right now, there's not going to be any displays or anything and that's just going to be for parking, correct? Mr. Michael Snide stated the following: That's going to be just for parking and in the event that we have installers that come up with the product, they will need to stop into the store and they can turnaround with their trailers and maybe a little bit of overflow should we get more people than the parking spaces accommodate, but we don't expect that to happen. Mr. Higgins stated okay, but there's not going to be any inventory stored there, there's not going to be any structures, sheds, and nothing is going to be there other than parking or turning around. Mr. Michael Snide stated nothing will be there until we come to the Town with another application for such as we're doing now. Mr. Higgins stated so; there's not going to be any trailers that are lettered parked there for extended periods of time. Mr. Michael

Snide stated no sir. Mr. Higgins stated okay, thank you for clarifying that. Mr. Michael Snide stated you're welcome. Mr. Bill Snide stated the following: My wife and I brought Rainbow play systems to Halfmoon in 1997 at the St. John Plaza and we operated out of there for a number of years and then we relocated down to Mr. Cummings property. We may have made some mistakes down there and to be honest with you, I don't recall, but if you addressed something or told us to do something, I'm sure we did it because we didn't want to jeopardize our relationship with that. I would just ask the Board to consider this; red/yellow/blue is the national color of Rainbow play systems that separates it from any other play set in the nation. We're the only ones allowed to have a red/yellow/blue tarp and it's patented for Rainbow play systems only. I would ask the Board if they would consider having us to at least be able to display maybe three sets with red/yellow/blue mixed in with the green because that's distinctive of Rainbow. One of the Board members mentioned that they have one and asked if it was red/yellow/blue. Mrs. Sautter stated no, it's green and I was going to say that I wouldn't want it to be all green because that takes away from the name and I completely understand that. Mr. Bill Snide stated we're the only swing set company that has red/yellow/blue primary colors and also, we have red/yellow/blue swings that go with the red/yellow/blue tarp and then we have the green tarp with green swings and a green slide. We try to stay away from the green slide because it is very very hot in the summer and we probably told Mrs. Sautter that, didn't we? Mrs. Sautter stated well, ours is in the shade. Mr. Bill Snide stated the following: We tend to sell more yellow slides because they are more user-friendly. I just wanted to bring that to the Board's attention and this is kind of like my baby in a way because I can't get away from it and we always had a good relationship with Halfmoon and we thank you for that. In fact, I think the Town bought some of our sets at one time when Mr. Kevin Tollisen was on the Town Board then and he purchased them for the Town and he interact with me personally and I thank you for that too. We've always had a great relationship with Halfmoon and we want to continue that. So, whatever you want my son, Michael to do or whatever, we're going to do it. We want to get up and running and this is our season right now. Again, thank you and I'm sorry to interrupt, but I just want to make the point that that red/yellow/blue is our national color. Mr. Higgins stated the following: As one comment and as one Board member; that possibly maybe the ones that up along Route 9 could be green and then the ones in the back can be the red/yellow/blue. We're just concerned about people driving up and somebody is slowing down to look at something and all of a sudden they get rear-ended. So, it's a very busy section of Route 9, there is a lot going on there and our main concern is safety. Mr. Michael Snide stated yes sir and we can work with the Town on that and we'll abide by any wishes or demands that the Town makes. Mr. Ouimet asked what is the Board's sense on the number of unit being proposed to display? Mr. Roberts stated I think nine is alright. Mr. Higgins stated the following: Possibly also another comment; again personal, maybe keep the ones up front a little lower and the higher ones in the back. Again, I'm just trying to think of people driving along and having an accident and that's what we're trying to prevent. Mr. Michael stated right and as a business owner, of course we want the biggest and best out front and as a Town, you're looking at it as a safety standpoint. Mr. Higgins stated as I said, there's a lot going on at that section of Route 9 already. Mr. Ouimet stated yes, it is a tough section of Route 9 and I'm not so sure that people drive 45 mph there like they are supposed to. Mr. Michael Snide stated I think the posted speed limit is 40 mph and there are too many people who do 50 to 60 mph so, I understand your concern. Mr. Nadeau stated looking at the proposed site again, regarding S1 and S2; are those the positions that they will stay in? Mr. Michael Snide stated those are the proposed position. Mr. Nadeau asked and you're not going to take S6 and put it to the back and swap S7? Mr. Michael Snide stated well, that's what Mr. Higgins was proposing to swap out the different units. Mr. Nadeau stated we need to know what that is going to be and put those on the site plan. Mr. Michael Snide stated the following: Sure. The total square footage of our area and the total square footage of footprints of the set will

not change and just the position of them will change. Mr. Nadeau stated so; it's not likely that we could see another S1 next to S7 because it looks like it could fit there and possibly another one near S8. Mr. Michael Snide stated no, it's impossible to fit more units than what we have in there. Mr. Higgins stated and maybe even just flip-flop them and have the bigger units in the back and the smaller lower units in the front just so it's not seven feet above the fence. Mr. Ouimet stated I think you've heard the sense of the Board. Mr. Michael Snide stated that is correct. Mr. Ouimet stated the following: I think before I sign this site plan, it would help if you could rearrange or think about how you might want to rearrange the placement of your units and I think the Board is comfortable with nine units and no more than nine units. So, we will let you determine how you want to rearrange them. Mr. Higgins stated and also if you could put notes on the drawing. Mr. Ouimet stated show the distance away from the property line where the fence line would be. Mr. Higgins stated and also the lower units in the front with the green. Mr. Ouimet stated I think the applicant has heard the sense of the Board and I just want to give him some time whether it be a day or two days before you submit it to the Planning Department for me to sign and you can make any corrections that the Board has suggested. Mr. Higgins stated and with the notes on there so that Code Enforcement has guidelines. Mr. Ouimet stated because where you determine these particular sets to sit, that's what Code Enforcement will follow. Mr. Michael Snide stated okay. Mr. Ouimet stated so; while we say that you can have nine unit, we're going to say where those nine units can be, but we're going to give you the opportunity to move it around to meet your needs. Mr. Michael Snide stated okay. Mr. Roberts asked the applicant if they were planning on having a sign at the site. Mr. Michael Snide stated the following: At this particular point, no sir. Again, addressing what you guys are concerned about; Rainbow play systems doesn't necessarily need a sign to attract customers or to add to any distractions. The swing sets themselves are going to be the advertisement. Mr. Ouimet stated I think it's clear that if you are going to need a sign, you're going to have to come back to this Board for an approval. Mr. Michael Snide stated that's correct and yes, we're ready to do that.

Mrs. Smith-Law made a motion to approve the Change of Use application for Rainbow Direct with the following conditions: (1) A revised site plan shall be submitted with the following: (a) a note stating the distance from the front yard property line to the proposed fence; and (b) the smaller units and the green roof units shall be located in the front of the lot within the fenced area; (2) A maximum of nine (9) units may be displayed within the fenced area, as shown on the site plan; and, (3) There shall be no storage or display units on the vacant southern portion of the lot, as shown on the site plan. Mr. Roberts seconded. All-Aye. Motion carried.

**Old Business:**

**13.097 OB**

**Saratoga Strategic Partners LLC, 1406C Route 9 (Capital Storage)**  
**– Sign**

The applicant failed to appear before the Board for this application; therefore, no action was taken on this item.

**13.098 OB**

**Lussier Site Plan Development, 1385 Crescent-Vischer Ferry Road**  
**– Commercial Site Plan**

Mr. Duane Rabideau from Gilbert VanGuilder Land Surveyor, PLLC stated the following: I'm here tonight representing the Lussier Site Plan located at 1385 Crescent-Vischer Ferry Road. This plan represents the changes and the concerns the Planning Board and CHA had. With the changes and revisions, I believe we have addressed the Planning Board's concerns and CHA concerns. Mr. Ouimet asked Mr. Bianchino if he had an opportunity to review this application. Mr. Bianchino stated we did review a couple of iterations and I think we did submit a letter to the Town last week

or the week before indicating that all of our outstanding items have been addressed and if it's okay with the Board, making a SEQRA determination and a determination on the application. Mr. Roberts asked Mr. Rabideau if the new concept or plan that we're doing here now is going to eliminate those years of unsightly cars and various forms of disarray out in front, right? Mr. Rabideau stated that's correct and that's the reasoning for the plantings and the one entrance in there and basically to make sure that nobody parks in the front of that place. Mr. Roberts stated so; it will be much more esthetically pleasing, right? Mr. Rabideau stated that is correct. Mr. Higgins asked where are the retail spaces for the retail sales of cars? Mr. Rabideau showed the Board where the spaces would be for the retail sales of cars on the site plan and stated that the first ten spaces are for the sales. Mr. Higgins stated I thought the write-up said six spaces for vehicle sales and are you now saying that it's ten? Mr. Rabideau stated yes, I believe it has been ten and that was mentioned at the last meeting also. Mr. Higgins stated the November 12, 2013 Planning Board write-up said six. Mrs. Murphy stated the write-up note states that the applicant is required to have 82 parking spaces on-site and they are showing 92 parking spaces so; I'm assuming that ten is for display and that was under the February 10, 2014 write-up note. Mr. Ouimet asked Mr. Bianchino if he recalled that it was ten. Mr. Bianchino stated honestly, I don't recall. Mr. Higgins asked Mr. Bianchino if he felt that the landscaping that they are showing is sufficient? Mr. Bianchino stated the following: For the space that they have available, yes. It's really tight and as you know, we have looked some alternatives in terms of trying to dress that front and maybe move the building around and there isn't a lot a room to get from the right-of-way, the parking and the building so; they've tried and they've done what they can do with the space that they have available. Mr. Ouimet stated if I recall correctly, I think they moved the building back a ways. Mr. Rabideau stated that's correct.

Mr. Roberts made a motion to declare a Negative Declaration pursuant to SEQRA. Mr. Higgins seconded. All-Aye. Motion carried.

Mr. Roberts made a motion to approve the Commercial Site Plan application for the Lussier Site Plan Development. Mr. Higgins. Smith-Law seconded. All-Aye. Motion carried.

**12.101 OB      Victor's Farm Subdivision, Farm to Market Road/Smith Road – Major Subdivision**

Mr. Mike Bianchino from Clough Harbour & Associates LLP stated the following: If the Board recalls, when the Board looked at this project and granted preliminary approval and at that time we had designated the project as an unlisted action pursuant to SEQRA because it does not meet any of the typical SEQRA thresholds for a Type I action. However, the New York State Department of Health (NYSDOH) has started applying their own Type I list and basically they have said that any reality subdivision is a Type I action and SEQRA indicates that when any involved agency identifies the project as a Type I action, every agency must consider it a Type I action and therefore a coordinated review is required and that's really the difference; the difference with an unlisted action and in this case we did not perform a coordinate review, which means we didn't send the notices out to the other involved agencies. Once the NYSDOH notified the Town and the applicant that they couldn't stamp the plan until we did a coordinated review, the Planning Department sent out a notice to all of the involved agencies doing the coordinated review and the 30 days required is up, so; at this point the Board can accept Lead Agency status and then reaffirm basically the Negative Declaration that was done when we did the preliminary approval.

Mr. Higgins stated made a motion that the Town of Halfmoon Planning Board accept Lead Agency status for this Type I action and re-affirmed the Negative Declaration in accordance with SEQRA. Mr. Ruchlicki seconded. All-Aye. Motion carried.

Mr. Ruchlicki made a motion to adjourn the April 14, 2014 Planning Board Meeting at 8:11pm. Mrs. Smith-Law seconded. All-Aye. Motion carried.

Respectfully submitted,  
Milly Pascuzzi  
Planning Board Secretary